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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013 - 590*

13 **KRISTEN MARIE ACKERBAUER**  
8052 Thurston Drive  
Cicero, NY 13039

**A C C U S A T I O N**

14 **Registered Nurse License No. 761168**

15 Respondent.

16  
17 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive  
20 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

21 2. On or about October 8, 2009, the Board issued Registered Nurse License Number  
22 761168 to Kristen Marie Ackerbauer ("Respondent"). The license was in full force and effect at  
23 all times relevant to the charges brought herein. The license expired on May 31, 2011, and has  
24 not been renewed.

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1 a. Effective July 5, 2011, pursuant to the Original Vote and Order No. 25586 issued by  
2 the New York State Education Department, Office of Professional Discipline, State Board for  
3 Nursing, in a disciplinary proceeding titled, *In the Matter of the Disciplinary Proceeding Against*  
4 *Kristen Marie Ackerbauer, Cal. No. 25586*, Respondent's Registered Professional Nurse License  
5 Number 570021, was suspended indefinitely. The Order was based on the following: Between  
6 September 1, 2010, and October 31, 2010, while working as a registered professional nurse at  
7 Samaritan Hospital in Troy, New York, Respondent withdrew Hydromorphone, Morphine, and  
8 Fentanyl for administration to various patients. On more than one occasion, Respondent  
9 withdrew the controlled substances in excess of the needed dosages and took the excess dosages  
10 for her own use. The Order is attached hereto as **Exhibit A** and incorporated herein by reference.

11 b. Effective September 14, 2011, pursuant to the Ex Parte Order of Summary Action  
12 issued by the State of Washington, Department of Health, Nursing Quality Care Commission, in a  
13 disciplinary proceeding titled, *In the Matter of Kristin Marie Ackerbauer, Credential No.*  
14 *RN.RN.60070361* (sic), Respondent's Registered Nurse License was summarily suspended  
15 pending further disciplinary proceedings by the Commission. The Order was based on  
16 Respondent's suspension by the New York State Board for Nursing, which is described in  
17 paragraph (a) above. The Order is attached hereto as **Exhibit B** and incorporated by reference.

18 **PRAYER**

19 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
20 and that following the hearing, the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nurse License Number 761168, issued to Kristen  
22 Marie Ackerbauer;

23 2. Ordering Kristen Marie Ackerbauer to pay the Board of Registered Nursing the  
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
25 Professions Code section 125.3; and,

26 ///

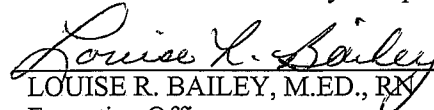
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3. Taking such other and further action as deemed necessary and proper.

DATED: JANUARY 29, 2013

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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**Exhibit A**

Original Vote and Order No. 25586 issued by the New York State Education  
Department, Office of Professional Discipline, State Board for Nursing



# The University of the State of New York

IN THE MATTER

OF

KRISTEN MARIE ACKERBAUER  
(Registered Professional Nurse)

ORIGINAL  
VOTE AND ORDER  
NO. 25586

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Upon the application of KRISTEN MARIE ACKERBAUER, under Calendar No. 25586, which application is made a part hereof, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (June 21, 2011): That the application of KRISTEN MARIE ACKERBAUER, respondent, for a consent order be granted; and that the Chief Operating Officer for the State Education Department be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the terms of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof are hereby adopted and SO ORDERED, and it is further

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ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

KRISTEN MARIE ACKERBAUER (25586)

IN WITNESS WHEREOF, I, Valerie Grey,  
Chief Operating Officer for the State  
Education Department, for and on  
behalf of the State Education  
Department and the Board of Regents,  
do hereunto set my hand, at the City  
of Albany, this 21st day of June,  
2011.

A handwritten signature in cursive script, reading "Valerie Grey", is written over a horizontal line.

VALERIE GREY  
CHIEF OPERATING OFFICER

NEW YORK STATE EDUCATION DEPARTMENT  
OFFICE OF PROFESSIONAL DISCIPLINE  
STATE BOARD FOR NURSING

-----X

IN THE MATTER

of the

Disciplinary Proceeding

against

KRISTEN MARIE ACKERBAUER

APPLICATION FOR  
CONSENT ORDER

CAL. NO. 25586

who is currently licensed to practice  
as a registered professional nurse  
in the State of New York.

-----X

KRISTEN MARIE ACKERBAUER states:

That on or about February 6, 2006 I was licensed to practice  
as a registered professional nurse in the State of New York,  
having been issued license number 570021 by the New York State  
Education Department.

I am currently registered with the New York State Education  
Department to practice as a registered professional nurse in the  
State of New York from an address at 8052 Thurston Drive, Cicero,  
New York, 13039.

That I have been charged with one (1) specification of  
professional misconduct, a copy of which is annexed hereto, made a  
part hereof, and marked as Exhibit "A."

I do not contest the aforesaid specification of professional  
misconduct, charging me with practicing the profession of nursing  
with negligence on more than one occasion (withdrawing excess  
dosages of controlled substances).



KRISTEN MARIE ACKERBAUER

I hereby agree to the penalty that my license to practice as a registered professional nurse in the State of New York be suspended indefinitely until, at my expense, I submit a written report from a physician, a psychiatrist, psychologist, licensed master social worker, licensed clinical social worker, or nurse practitioner (psychiatric specialty) selected by me and previously approved, in writing, by the New York State Education Department, to the Director, Office of Professional Discipline, Office of Professional Discipline, New York State Education Department, 195 Montague Street--Fourth Floor, Brooklyn, New York 11201 3631, in which said physician, psychiatrist, psychologist, licensed master social worker, licensed clinical social worker, or nurse practitioner (psychiatric specialty) shall verify that I am fit to practice as a registered professional nurse in the State of New York. Said suspension shall continue until the Director is satisfied that I am fit to practice, at which time said Director shall notify me of the termination of the suspension of my license and the effective date thereof.

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I further agree that, upon termination of the suspension of my aforesaid license, I shall be placed on probation for a period of two (2) years, to commence upon my return to the practice of nursing in the State of New York, under the terms set forth in the exhibit annexed hereto, made a part hereof and marked as Exhibit "B".

KRISTEN MARIE ACKERBAUER

I further agree to inform the Director, Office of Professional Discipline, of my return to the practice of nursing in the State of New York, by certified mail, return receipt requested, addressed to said Director at the aforesaid address, at least seven (7) days before my return to the practice of nursing in the State of New York.

I hereby make this application to the Board of Regents and request that it be granted.

I understand that in the event that the Board of Regents denies the application, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me. Such application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the disciplinary proceeding, and such denial by the Board of Regents shall be without prejudice to the continuance of the disciplinary proceeding and the final determination by the Board of Regents pursuant to the provisions of the Education Law.

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I agree that in the event the Board of Regents grants my application, as set forth herein, an Order may be issued in accordance with the same. I understand that if and when the Board

KRISTEN MARIE ACKERBAUER

of Regents grants this application, the entire application shall  
become a matter of public record.

No promises of any kind were made to me. I am making this application of my own free will and accord and not under duress, compulsion, or restraint of any kind or manner.

  
Respondent

EXHIBIT "A"

KRISTEN MARIE ACKERBAUER

SPECIFICATION OF PROFESSIONAL MISCONDUCT

Respondent is charged with practicing the profession of nursing as a registered professional nurse with negligence on more than one occasion, within the purview and meaning of New York Education Law section 6509(2), in that:

1. Respondent, on or about and between September 1, 2010 and October 31, 2010, while working as a registered professional nurse at Samaritan Hospital in Troy, New York, in the Intensive Care Unit, withdrew dosages of Hydromorphone, Morphine, and Fentanyl for several patients who had physician orders for the medications.
  2. Respondent, on more than one occasion, withdrew medications for those patients in excess of the needed dosage and took the excess dosages of the medications for her own use.
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EXHIBIT "B"

TERMS OF PROBATION

KRISTEN MARIE ACKERBAUER

CALENDAR NO.25586

1. That Respondent, during the period of probation, shall be in compliance with the standards of conduct prescribed by the law governing Respondent's profession;
2. That Respondent shall submit written notification to the New York State Education Department, addressed to the Director, Office of Professional Discipline, New York State Education Department, 195 Montague Street -- Fourth Floor, New York, New York 11201-3631, of any employment and/or practice, Respondent's residence, telephone number, or mailing address, and of any change in Respondent's employment, practice, residence, telephone number, or mailing address within or without the State of New York;
3. Respondent shall, during the period of probation, abstain from the unauthorized use of all drugs and shall be fit to practice her profession;
4. That Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that Respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the NYSED, addressed to the Director, Office of Professional Discipline, as aforesaid, no later than the first three months of the period of probation;
- ~~5. That Respondent shall submit written proof to the NYSED, addressed to the Director, Office of Professional Discipline, as aforesaid, that 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon Respondent by the Board of Regents, said proof of the above to be submitted no later than the first two months of the period of probation;~~
6. That Respondent shall make quarterly visits to an employee of

NEW YORK STATE EDUCATION DEPARTMENT  
OFFICE OF PROFESSIONAL DISCIPLINE  
STATE BOARD FOR NURSING

-----X

IN THE MATTER

of the

Disciplinary Proceeding

against

KRISTEN MARIE ACKERBAUER

APPLICATION FOR  
CONSENT ORDER

CAL. NO. 25586

who is currently licensed to practice  
as a registered professional nurse  
in the State of New York.

-----X

The undersigned agree to the above statement and to the  
proposed penalty based on the terms and conditions thereof.

Dated: 3/1, 2011

K. Ackerbauer  
Respondent

Dated: , 2011

ATTORNEY'S FEE NOT REQUIRED;  
RESPONDENT APPEARED PRO SE.  
Attorney for Respondent

Dated: March 4, 2011

Barbara J. Bogen RN  
Member of the State Board  
for Nursing

Dated: 3/30, 2011

Karin Hater  
Director

Office of Professional Discipline

The undersigned, a member of the Board of Regents who has  
been designated by the Chairman of the Regents Committee on  
Professional Practice to review this Application for a Consent  
Order, has reviewed said Application and recommends to the Board  
of Regents that the Application be granted.

Dated: April 15, 2011

Samuel Ching  
Member, Board of Regents

KFC



# The University of the State of New York

X-----X

IN THE MATTER

OF

Kristen Maria Ackerbauer

REGISTERED PROFESSIONAL NURSE

X-----X

STATE OF NEW YORK        )  
                                  SS.:  
COUNTY OF ALBANY        )

I, Michael Kinley, being duly sworn, deposes and says:

I am over the age of twenty-one years and am an employee of the New York State Education Department, Office of Professional Discipline, 80 Wolf Road, Suite 204, Albany, New York 12205-2643.

On the 30 day of June, 2011, I personally delivered to the Stuyvesant Plaza Post Office the Duplicate Original Vote of the Board of Regents and Order under Calendar No. 25586 and the Report of the Regents Review Committee or Application for Consent or Surrender, or Report of the designated Regent in a summary suspension proceeding as applicable, by Certified Mail - Return Receipt Requested to the respondent herein named at 8052 Thurston Drive Cicero, NY 13039.

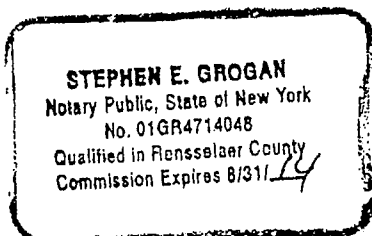
Certified Mail Receipt No: 7002 0860 0000 6521 7895

The effective date of the Order being the 5 day of July, 2011.

Sworn to before me this  
6 day of July, 2011

*Stephen E. Grogan*

*[Signature]*



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**Exhibit B**

Ex Parte Order of Summary Action issued by the State of Washington,  
Department of Health, Nursing Quality Care Commission





STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
Olympia, Washington 98504

RE: Kristen Marie Ackerbauer  
Master Case No.: M2011-594  
Document: Statement of Charges

Regarding your request for information about the above-named practitioner; attached is a true and correct copy of the document on file with the State of Washington, Department of Health, Adjudicative Clerk Office. These records are considered Certified by the Department of Health.

Certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **NONE**

If you have any questions or need additional information regarding the information that was withheld, please contact:

Customer Service Center  
P.O. Box 47865  
Olympia, WA 98504-7865  
Phone: (360) 236-4700  
Fax: (360) 586-2171

You may appeal the decision to withhold any information by writing to the Privacy Officer, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890.

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
NURSING CARE QUALITY ASSURANCE COMMISSION

In the Matter of

**KRISTEN MARIE ACKERBAUER**  
Credential No. RN.RN.60070361

Respondent

No. M2011-594

**STATEMENT OF CHARGES**

The Health Services Consultant of the Nursing Care Quality Assurance Commission (Commission), on designation by the Commission makes the allegations below, which are supported by the evidence contained in case number 2010-145623.

**1. ALLEGED FACTS**

1.1 Respondent was issued a credential to practice as a registered nurse by the state of Washington on January 15, 2009. Respondent's credential expired on April 12, 2011, and is eligible for late renewal.

1.2 On or about June 21, 2011, Respondent's credential to practice as a registered nurse in the state of New York was indefinitely suspended by the New York State Board for Nursing for withdrawing medications for patients in excess of the needed dosages and taking the excess dosages for her own use.

**2. ALLEGED VIOLATIONS**

2.1 Based on the facts in Section 1, Respondent has committed unprofessional conduct in violation of RCW 18.130.180(5), which provides in part:

**RCW 18.130.180 Unprofessional conduct.** The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

...

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction.

...

ORIGINAL

2.2 The above violation provides grounds for imposing sanctions under RCW 18.130.160.

### 3. NOTICE TO RESPONDENT

The charges in this document affect the public health, safety and welfare. The Health Services Consultant of the Program directs that a notice be issued and served on Respondent as provided by law, giving Respondent the opportunity to defend against these charges. If Respondent fails to defend against these charges, Respondent shall be subject to discipline pursuant to RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

DATED September 14, 2011

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
NURSING CARE QUALITY ASSURANCE  
COMMISSION

Mary Dale  
MARY DALE  
HEALTH SERVICES CONSULTANT

ROBERT M. MCKENNA  
ATTORNEY GENERAL

Kristin G. Brewer  
KRISTIN G. BREWER, WSBA # 38494  
ASSISTANT ATTORNEY GENERAL



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
Olympia, Washington 98504

RE: Kristen Marie Ackerbauer  
Master Case No.: M2011-594  
Document: Summary Action Order

Regarding your request for information about the above-named practitioner; attached is a true and correct copy of the document on file with the State of Washington, Department of Health, Adjudicative Clerk Office. These records are considered Certified by the Department of Health.

Certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **NONE**

If you have any questions or need additional information regarding the information that was withheld, please contact:

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P.O. Box 47865  
Olympia, WA 98504-7865  
Phone: (360) 236-4700  
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STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
NURSING CARE QUALITY ASSURANCE COMMISSION

In the Matter of:

KRISTEN MARIE ACKERBAUER,  
Credential No. RN.RN.60070361,

Respondent.

Master Case No. M2011-594

EX PARTE ORDER OF  
SUMMARY ACTION

PRESIDING OFFICER: Frank Lockhart, Health Law Judge

On September 15, 2011, this matter came before the Presiding Officer on delegation by the Nursing Care Quality Assurance Commission (Commission) on an Ex Parte Motion for Order of Summary Action (Ex Parte Motion) brought by the Nursing Program of the Department of Health (Department) through the Office of the Attorney General. The Department issued a Statement of Charges alleging Respondent violated RCW 18.130.180(5). The Presiding Officer, after reviewing the Statement of Charges, Ex Parte Motion, and supporting evidence, grants the motion. CREDENTIAL SUSPENDED pending further action.

**I. FINDINGS OF FACT**

1.1 Respondent is a registered nurse, credentialed by the state of Washington at all times applicable to this matter.

1.2 The Department issued a Statement of Charges alleging Respondent violated RCW 18.130.180(5). The Statement of Charges was accompanied by all other documents required by WAC 246-11-250.

EX PARTE ORDER OF  
SUMMARY ACTION

Page 1 of 4

Master No. M2011-594

1.3 On or about June 21, 2011, the New York State Education Department, Office of Professional Discipline, State Board for Nursing (New York Nursing Board), indefinitely suspended Respondent's credential to practice as a registered nurse. Respondent remains prohibited from practicing as a registered nurse in the state of New York.

1.4 The Department's Motion was accompanied by a sworn affidavit from Catherine Woodard; a copy of the Application for Consent Order No. 25586 In the Matter of the Disciplinary Proceeding against Kristen Marie Ackerbauer, before the New York Board, dated April 15, 2011, and signed by the Respondent; and a copy of the University of the State of New York, In the Matter of Kristen Marie Ackerbauer, Original Vote and Order No. 25586, dated June 21, 2011.

1.5 The New York Nursing Board based its prohibition on a finding that Respondent withdrew medications for patients in excess of the needed dosages, and took the excess dosages for her own use. In Washington, that conduct would violate RCW 18.130.180(6), (7), (23)(b) and WAC 246-840-710(5)(a).

## **II. CONCLUSIONS OF LAW**

2.1 The Commission (and by delegated authority, the Presiding Officer) has jurisdiction over Respondent's credential to practice as a registered nurse. RCW 18.130.040.

2.2 The Commission has designated summary action authority to the presiding officer in cases involving alleged violations of RCW 18.130.180(5).

2.3 RCW 18.130.180 defines unprofessional conduct as including:

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction.

RCW 18.130.370 states:

Any individual who applies for a license or temporary practice permit or holds a license or temporary practice permit and is prohibited from practicing a health care profession in another state ~~because of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct prohibited by this chapter or any of the chapters specified in RCW 18.130.040~~ is prohibited from practicing a health care profession in this state until proceedings of the appropriate disciplining authority have been completed under RCW 18.130.050.

RCW 18.130.050(8) in its relevant part provides:

Consistent with RCW 18.130.370, a disciplining authority *shall* issue a summary suspension of the license or temporary practice permit of a license holder prohibited from practicing a health care profession in another state, federal, or foreign jurisdiction because of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct prohibited by this chapter or any of the chapters specified in RCW 18.130.040. The summary suspension remains in effect until proceedings by the Washington disciplining authority have been completed; (emphasis added).

2.4 The type of unprofessional conduct alleged in the New York disciplinary action is substantially equivalent to unprofessional conduct that is prohibited by Washington statutes RCW 18.130.180(6), (7), (23)(b) and WAC 246-840-710(5)(a).

2.5 Summary suspension pending further proceedings is mandatory in cases where a respondent is prohibited from practicing in another state or foreign jurisdiction because of conduct that is substantially equivalent to an act of unprofessional conduct under Washington statute or regulation. A lesser restrictive alternative is not available.


The Findings of Fact establish that the requested summary action is necessary, and legislatively mandated to protect public health, safety, or welfare.

### III. ORDER

3.1 Based on the Findings of Fact and Conclusions of Law, it is ORDERED that Respondent's credential to practice as a registered nurse is SUMMARILY SUSPENDED pending further disciplinary proceedings by the Commission. Respondent shall immediately deliver all credential(s), including wall, display, and/or wallet, if any, to the Department.

3.2 It is HEREBY ORDERED that a protective order in this case is GRANTED. All healthcare information and nonconviction data contained in the Ex Parte Motion, Declaration, and attached exhibits shall not be released except as provided in Chapter 70.02 RCW and Chapter 10.97 RCW. RCW 34.05.446(1), WAC 246-11-400(2) and (5).

Dated this 14 day of September, 2011.

  
FRANK LOCKHART, Health Law Judge  
Presiding Officer

For more information, visit our website at <http://www.doh.wa.gov/hearings>.





STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
Olympia, Washington 98504

RE: Kristen M. Ackerbauer  
Master Case No.: M2011-594  
Document: Default Order

Regarding your request for information about the above-named practitioner; attached is a true and correct copy of the document on file with the State of Washington, Department of Health, Adjudicative Clerk Office. These records are considered Certified by the Department of Health.

Certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **NONE**

If you have any questions or need additional information regarding the information that was withheld, please contact:

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**STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
NURSING CARE QUALITY ASSURANCE COMMISSION**

In the Matter of

No. M2011-594

**KRISTEN M. ACKERBAUER**  
Credential No. RN.RN.60070361

Respondent.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
FINAL ORDER OF DEFAULT  
(Failure to Respond)**

This matter comes before the Health Law Judge, Presiding Officer for Final Order of Default. Based on the record, the Presiding Officer, on designation by the Nursing Care Quality Assurance Commission (Commission), now issues the following:

**1. FINDINGS OF FACT**

1.1 On January 15, 2009, the state of Washington issued Respondent a credential to practice as a registered nurse. Respondent's credential is currently summarily suspended.

1.2 Supporting exhibits were filed with the Adjudicative Clerk Office on September 15, 2011, attached to the Declaration of Catherine Woodard in Support of Motion for Summary Action, dated September 13, 2011.

1.3 On or about June 21, 2011, Respondent's credential to practice as a registered nurse in the state of New York was indefinitely suspended by the New York State Board for Nursing for withdrawing medications for patients in excess of the needed dosages and taking the excess dosages for her own use.

1.4 On September 15, 2011, the Commission served Respondent with a copy of the following documents at Respondent's last known address:

- A. Statement of Charges;
- B. Ex-Parte Order of Summary Action;
- C. Notice of Your Legal Rights;
- D. Answer to Statement of Charges and Request for Adjudicative Proceedings;
- E. Ex-Parte Motion for Order of Summary Action;

ORIGINAL

F. Declaration of Catherine Woodard in Support of Motion for Summary Action, with Attachments.

1.5 The Answer to the Statement of Charges was due in the Adjudicative Clerk Office by October 5, 2011.

1.6 To date, the Adjudicative Clerk Office has not received an Answer to the Statement of Charges. On October 10, 2011, the Adjudicative Clerk Office issued a Notice of Failure to Respond.

1.7 The Commission has no reason to believe Respondent is now or was in active military service, or a dependent of a person in active military service at the time the Statement of Charges was served.

## 2. CONCLUSIONS OF LAW

2.1 The Commission has jurisdiction over Respondent and over the subject matter of this case. RCW 18.130.040.

2.2 Respondent did not file a response to the Statement of Charges within the time allowed. WAC 246-11-270(1)(a)(i) or WAC 246-11-270(3). Respondent is in default and the Commission may issue a final order based on the evidence presented. RCW 18.130.090(1) and RCW 34.05.440.

2.3 Based upon the Findings of Fact, Respondent has committed unprofessional conduct pursuant to RCW 18.130.180(5).

2.4 Sufficient grounds exist to take disciplinary action against Respondent's credential. RCW 18.130.160 and RCW 18.130.180.

## 3. COMPLIANCE WITH SANCTION RULES

3.1 The disciplining authority applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions. WAC 246-16-800(2)(c) requires the disciplining authority to impose terms based on a specific sanction schedule unless "the schedule does not adequately address the facts in a case."

3.2 WAC 246-16-800(2)(b)(iv) allows the disciplining authority to impose indefinite suspension in default hearing orders. The Commission believes this is the appropriate discipline in this case given the facts and the need to protect the public.

#### 4. ORDER

##### The COMMISSION ORDERS:

4.1 Respondent's credential to practice as a registered nurse in the state of Washington is **INDEFINITELY SUSPENDED**.

4.2 Respondent shall present both portions of her credential to the Department of Health, Nursing Commission, PO Box 47864, Olympia, WA 98504-7864 within ten (10) days of receipt of this Order.

4.3 Prior to petitioning for reinstatement of her credential, Respondent must provide satisfactory evidence of being clean and sober for at least twenty-four (24) consecutive months immediately preceding any such petition. Evidence of being clean and sober shall include random observed biological fluid testing, to include ETG/ETS (at least twelve (12) tests per year) and quarterly hair testing by an independent testing entity (Note: Respondent may contact the Commission's Compliance Officer or the Department of Health's Washington Health Professional Services (WHPS) Program for assistance in identifying an independent testing entity to conduct the random testing program), completion of chemical dependency treatment, participation in NA/AA, and a recent (within ninety (90) days of requesting reinstatement) chemical dependency evaluation by a Commission – approved evaluator. This recent chemical dependency evaluation shall include:

- A. Respondent's condition or diagnosis;
- B. Conclusions and prognosis;
- C. Recommendations regarding the need for ongoing care and treatment;
- D. Professional opinion regarding Respondent's ability to practice as a registered nurse with reasonable skill and safety.

4.4 Respondent shall assume all costs of complying with this Order.

4.5 Respondent shall inform the Nursing Care Quality Assurance Commission Customer Service, in writing, of changes in Respondent's residential and/or business address within thirty (30) days of the change. The mailing address for the Nursing Care, Quality Assurance Commission Customer Service is P.O. Box 47864, Olympia, WA 98504-7864.

4.6 The effective date of this Order is that date the Adjudicative Clerk Office places the signed order into the U.S. mail. Respondent shall not submit any fees or compliance documents until after the effective date of this Order.

## 5. NOTICE TO PARTIES

This Order is subject to the reporting requirements of RCW 18.130.110, Section 1128E of the Social Security Act, 45 CFR Part 61, and any other applicable interstate/national reporting requirements. If adverse action is taken, it must be reported to the Healthcare Integrity Protection Data Bank.

Either Party may file a **petition for reconsideration**.

RCW 34.05.461(3); 34.05.470. The petition must be filed within ten (10) days of service of this Order with:

Adjudicative Clerk Office  
Adjudicative Service Unit  
PO Box 47879  
Olympia, WA 98504-7879

and a copy must be sent to:

State of Washington  
Department of Health  
Legal Services Office  
PO Box 47873  
Olympia WA 98504-7873

The petition must state the specific grounds upon which reconsideration is requested and the relief requested. The petition for reconsideration is considered denied twenty (20) days after the petition is filed if the Adjudicative Clerk Office has not responded to the petition or served written notice of the date by which action will be taken on the petition.

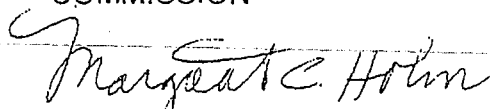
A petition for judicial review must be filed and served within thirty (30) days after service of this Order. RCW 34.05.542. The procedures are identified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the thirty (30) day period will begin to run upon the resolution of that petition. RCW 34.05.470(3).

The Order remains in effect even if a petition for reconsideration or petition for review is filed. "Filing" means actual receipt of the document by the Adjudicative Clerk

Office. RCW 34.05.010(6). This Order was "served" upon you on the day it was deposited in the United States mail. RCW 34.05.010(19).

DATED: October 18, 2011

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
NURSING CARE QUALITY ASSURANCE  
COMMISSION



HEALTH LAW JUDGE  
PRESIDING OFFICER

PRESENTED BY:



DEBRA L. DEFREYN, WSBA #28317  
DEPARTMENT OF HEALTH STAFF ATTORNEY

10/17/11  
DATE